

**FILED**

**NOT FOR PUBLICATION**

**MAR 01 2006**

**UNITED STATES COURT OF APPEALS**

**CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS**

**FOR THE NINTH CIRCUIT**

MONSERRATE TRINIDAD MACIAS,

Petitioner,

v.

ALBERTO R. GONZALES,\* Attorney  
General,

Respondent.

No. 04-70639

Agency No. A75-486-211

MEMORANDUM \*\*

On Petition for Review of an Order of the  
Board of Immigration Appeals

Submitted February 17, 2006\*\*\*  
Pasadena, California

Before: B. FLETCHER, TASHIMA and CALLAHAN, Circuit Judges.

Monserrate Trinidad Macias, a native and citizen of Ecuador, petitions *pro se* for review of the Board of Immigration Appeals' ("BIA") denial of her motion

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\* Alberto R. Gonzales is substituted for his predecessor, John Ashcroft, as Attorney General of the United States, pursuant to Fed. R. App. P. 43(c)(2).

\*\* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

\*\*\* The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

to reopen removal proceedings following the BIA's summary affirmance of an Immigration Judge's ("IJ") denial of her application for cancellation of removal. Petitioner contends that the BIA abused its discretion by failing to address her son's learning disability (attention deficit hyperactivity disorder), and in denying her motion to reopen.

As the BIA acted within its broad discretion in denying Macias' motion to reopen based on her failure to establish that her son could not receive proper medical attention in Ecuador, we lack jurisdiction to review that decision. *See* 8 U.S.C. § 1252(a)(2)(B)(i); *INS v. Doherty*, 502 U.S. 315, 322 (1992); *Romero-Torres v. Ashcroft*, 327 F.3d 887, 891 (9th Cir. 2003); *Kalaw v. INS*, 133 F.3d 1147, 1152 (9th Cir. 1997).

We do, however, have jurisdiction to address Macias' due process challenge. *Martinez-Rosas v. Gonzales*, 424 F.3d 926, 930 (9th Cir. 2005). But such a challenge must, at least, be "colorable." *Id.* Macias' contention that the BIA misapplied the law to the facts of her case does not meet this requirement. *Id.* We therefore deny Macias' due process challenge.

**PETITION FOR REVIEW DENIED in part and DISMISSED in part.**